state may be applied in a constitutionally permissible manner. *Hague* holds that "the state must have a significant contact or aggregation of contacts, creating state interests, such that choice of its law is neither arbitrary nor fundamentally unfair" 449 U.S. at 312-13.

Respondent Chappell is a New York resident. The vehicle was rented in Michigan for the purpose of Powell traveling to New York to surprise Chappell for Valentine's Day. The vehicle was placed in commercial use for the very first time on February 12, 2002. It was rented to Powell on that day and he immediately drove to New York where the vehicle remained from February 12, 2002 to February 15, 2002. The accident occurred on February 16, 2002. On a calendar basis, the vehicle spent more than 75% of its lifetime commercial use in New York. It spent more time in New York *than any other state* during its short life span. It was never operated in compliance with the registration laws of any state of the United States. The accident occurred in Pennsylvania during a trip to Michigan which originated from New York. Budget does business in New York.[1]

Inconceivably, petitioner characterizes the New York contacts as "casual and transitory". (Pet. 10). The Lower Court saw matters quite differently, stating, "We have no doubt that this case passes the *Hague* standard for a constitutionally permissible choice of law. All three of the factors the Court relied on in *Hague* are present here, plus many more." (Pet. App. 17a).

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1. The entity which rented the vehicle to Powell was Budget Rent-a-Car Systems, Inc., part of Budget Group, Inc. The part of Budget Group, Inc. which operated the car rental business in New York in February 2002 was NYRAC, Inc. Budget Rent-A-Car Systems, Inc. owned 100% of NYRAC, Inc. From the time of the accident to present Budget has and continued to maintain a car rental business in New York.

The substantial contacts give rise to significant New York interests, including the public policy behind VTL 388 to ensure access by injured persons to a financially responsible party against whom to recover for injuries. *Hassan v. Mortuori*, 786 N.E.2d 25, 27, 99 N.Y.2d 348, 353 (N.Y. 2003).

Petitioner notes that "critical to the due process analysis is the reasonable expectation of the parties." (Pet. 10). Implausibly, it argues that it could not reasonably have expected to be subject to New York law (Pet. 12). That assertion is wholly discredited by the facts. Budget's rental agreement permitted the unfettered use of the vehicle anywhere in the continental United States and Canada. The rental agreement did not contain a choice of law provision. As a matter of policy Budget made no inquiry of its renter of where he intends to travel. Despite the $20,000.00 limits of its vicarious liability under Michigan law, Budget maintained insurance on its vehicles, including this accident vehicle, in the amount of $200,000,000.00. Budget operated a nationwide car rental agency. It surcharged this renter $25.00 per day for his age related increased risk of accident. In reality, petitioner's reasonable expectation at the time of the rental that it may find itself subject to New York law is no less than its reasonable expectation that it may be subject to the laws of Michigan, Pennsylvania, or any other state in the continental United States or Canada.

Given the extent of significant contacts, the state interests that arise and the reasonable expectations that existed at the time of the rental, the Third Circuit applied the criteria established by this Court in *Hague* and properly concluded that New York law may be applied in a constitutionally permissible manner.

IV. THE DECISION BELOW IS PLAINLY CORRECT

The decision below is sound and correct. The Lower Court properly interpreted the decisions of New York's highest court and an intermediate appellate court in concluding that the facts of this case fall within the substantive coverage of VTL 388. The Lower Court properly followed the precedent of this Court in concluding that VTL 388 may be applied in a constitutionally permissible manner.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

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SEPTEMBER, 2005